

**GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT**

Tribal Welfare - East Godavari District - Revision Petition filed Under Section 6 of A.P.S.A.L.T.R. 1959, by Sri Kunjerla Appa Rao S/o Gavarayya R/o Nellipudi (V) Gangavaram (M), East Godavari against the orders of the Additional Agent to Government, Rampachodavaram in CMA No.20/2003 Dated:26-7-2004 - Dismissed - Orders - Issued.

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SOCIAL WELFARE (LTR-2) DEPARTMENT

**G.O.Ms.No. 228**

Dated:24-11-2008

Read the following:

1. From Sri K.Venkatesh, Counsel for the Petitioner in Revision Petition  
dt: 27-3-2005.
2. Government Memo No.3155/LTR-2/2005 dt:19-4-2005.
3. From the Hon'ble High Court of Andhra Pradesh in W.P No.11524 of 2005 dt: 24-5-2005.
4. From the Project Officer, ITDA, Rampachodavaram, East Godavari, Ref. CMA No.20/2003, dt:1-7-2005.
5. Govt., Memo No.3155/LTR-2/2005 dt:30-12-2005, 17-7-2006 and 21-8-2007.

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**ORDER:**

In the reference 1<sup>st</sup> read above, Sri Kunjerla Appa Rao S/o Gavarayya has filed a Revision Petition before the Government against the Orders of the Additional Agent to Government in CMA No.20/2003 dated:26-7-2004 in respect of lands admeasuring Acres 3.14 cents in RS Nos.1/6 of Nellipudi (V) Gangavaram (M) of East Godavari District. The main grounds of the appellant in the Revision Petition among others are:-

- i) The petitioner purchased the land under an agreement of sale dt:9.5.1968 and possession taken over on the same date though registration was effected subsequently on 18-2-1975, and hence the sale transaction is valid and not contrary to the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation.
- ii) That the order in LTRP No.72/2002 is barred by resjudicata as the earlier proceedings in LTRP No.34/76 were ended in favour of the petitioner.

**2.** The brief history of the case is that in pursuance of the orders of the Hon'ble High Court in W.P. 3189/2000 filed by Smt. Yalla Pandamma and 2 others, the Special Deputy Tahasildar (TW), Gangavaram (M) filed a petition for restoration of P.S land in Sy.No.1/6 of Acres 3.14 cents covered by the sale transaction between two non-tribals in document 177/1970, from the non-tribal Kunjerla Appa Rao. On perusal of the LTRP Nos.34/76, 38/76 filed by Medhu Veeti family against Kunjerla Chantabbai & 2 others, the Special Deputy Collector (TW) held that the P.S land was purchased by Sri Kunjerla Appa Rao from Sri Madhuveeti Appala Raju through registered deed 177/1970 executed after commencement of Regulation 1/1970, and it is held to be null and void under Section 3 (1) (a) of A.P.S.A.L.T.R 1/1959 as amended by the Land Transfer Regulation 1/1970. The Special Deputy Collector (TW), ordered for ejection of the respondents from the P.S land and to restore the same to Government for onward assignment to eligible Tribals vide LTRP No.72/2002 dt:2-7-2002. Aggrieved by the order of Special Deputy Collector (TW) Sri Kunjerla Appa Rao has filed an appeal before the Additional Agent to Government. The Additional Agent to Government after due enquiry held that the appellant filed an unregistered sale agreement dt:9-5-1968, and also a tax receipt dt: 17-3-1968. In the

sale agreement dt:9-5-1968 it is mentioned that possession was handed over on that date only, but the tax receipt shows the date 17-3-1968. Hence the Additional Agent to Government held that, all these versions are contrary to each other and not believable. The plea of agreement is set to circumvent the Tribal Protective LTR 1 of 1970. Hence the sale transaction held between non-tribals through Regd. Sale deed No.177/70 is absolutely null and void and any transfer of land situated in Scheduled area between non-tribals is absolutely null and void under Section 3 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1970. Neither transfer nor transferees can claim right over such lands through such transaction. Hence the Additional Agent to Government upheld the orders of the Lower Court in CMA No:20/2003 dt:26-7-2004 and directed the Mandal Revenue Officer, Gangavaram (M) to evict the appellant or any other persons from the Scheduled Lands. Aggrieved by the order of the Addl. Agent to Government Sri Kunjerla Appa Rao has filed this Revision Petition before the Government.

**3.** In the reference 2<sup>nd</sup> read above, the Agent to Government, Rampachodavaram was requested to furnish parawise remarks and case records and the same were furnished in the reference 4<sup>th</sup> read above. After examination of the case records, notices were issued to the concerned to attend the hearing of the Revision Petition dt:21-1-2006,10-8-2006 and was finally heard on 31-8-2007. The petitioner was absent and the Counsel for the petitioner attended and argued corroborating with the grounds urged in the Revision Petition.

**4.** Government after examination of the records of the Lower Court and appellate Court found that:-

- i) The petitioner deposed before the lower court that he purchased the PS land from Madhuveeti family members about 30 years back and the cases filed by Madhuveeti family member against his father in LTRP 35 to 38/70 were dismissed as Madhuveeti people are not tribals as such the case is to be dismissed. Even assuming that vendor in the sale deed No.177/70, dt.18.2.75, is a non-tribal, the transaction held between him and the petitioner is in violation of LTR 1/70. Hence, the sale is null and void. The earlier order passed in LTRP 34/76 and other cases did not discuss about the sale transaction held through Regd. Sale Deed No.177/70. Hence, the principle of resjudicata does not apply.
- ii) The sale agreement executed on 9.5.1968 which is not duly stamped and registered U/s.17-B of Registration Act cannot be taken as an evidence of proof in the light of the Judgement of the Hon'ble High Court of AP in CRP No.1087/96, dt.10.11.1998 in the case of Bangaru Rama Thulisamma Vs Yada Mastan Reddy. Further, it is also a well settled law that right, title and interest of the vendor extinguished only by executing deed of conveyance duly registered under Registration Act. Hence, the sada agreement executed on 9.5.1968 cannot be admitted either as primary or substantial evidence.
- iii) When the sale agreement was executed on 9.5.1968 how could he pay the tax on 17.3.1968 i.e. prior to the sale. He also deposed before the lower court that he has been cultivating the land since 1966. All these versions are contrary to each other and unbelievable. The plea of agreement of sale on 9.5.1968 is invented only to circumvent the LTR proceedings.

**5.** Government after careful examination of the case records, hereby uphold the Orders of the Addl. Agent to Government, Project Officer, ITDA, East Godavari District in CMA No.20/2003 dt:26-7-2004 and accordingly dismiss the Revision Petition. The stay granted by the

Hon'ble High Court of Andhra Pradesh in W.P No.11524 of 2005 dated:24-05-2005 will become inoperative.

**6.** The Collector, East Godavari / Agent to Government, East Godavari District is requested to take necessary action in the matter.  
( BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHR PRADESH )

**A.K.TIGIDI,**

**Prl. Secretary to Government.**

**To**

The Collector, East Godavari District.

The Addl.Agent to Govt. & PO, ITDA, Rampachodavaram, East Godavari.

The Special Deputy Collector (TW), Rampachodavaram, East Godavari.

The Special Deputy Tahasildar (TW), Gangavaram (M), East Godavari.

Sri K.Venkatesh, Advocate,

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RTC Cross Roads, Hyderabad.

Sri Kunjerla Appa Rao S/o Gavarayya,

R/o Nellipudi (V) Gangavaram (M),East Godavari.

The P.S to M (TW&RAID).

SF /SC

**// FORWARDED BY ORDER //**

**SECTION OFFICER**